IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Bail Appl..No. 4293 of 2007()

CRIME NO. 112/07 OF ADHUR POLICE STATION

PETITIONERS/ACCUSED 1 & 3

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1. VENUGOPALAN, S/O.KUNHAMBU NAIR,
   AMMANCODE HOUSE, P.O.MULIYAR,
   KASARAGOD.

2. RAJAN.K., S/O.KUMARAN,
   BEPE HOUSE, P.O.IRIYANNAI.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. THE SUB INSPECTOR OF POLICE,
   ADHUR POLICE STATION.

2. STATE REP.BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4293 of 2007

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Dated this the 16th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 3. They face allegations under Sections 452 and 354 I.P.C. Investigation is complete. Final report has already been filed. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Directions under Section 438 Cr.P.C. may be issued in their favour, it is prayed.

2. The learned Prosecutor submits that the investigation is complete. The charge sheet has already been filed. The petitioners need only appear before the learned Magistrate and seek bail. There is no reason to justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioners, submits the prosecutor.

3. I find merit in the opposition raised by the learned Prosecutor. I am satisfied that this is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having

jurisdiction and then seek regular bail in the ordinary course. I find no reason to invoke the equitable discretion under Section 438 Cr.P.C.

5. This application is hence dismissed. Needless to say, if the petitioners surrender before the Investigating Officer or the learned Magistrate having jurisdiction and apply for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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